

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SCOTT T. COBB and DEPARTMENT OF THE ARMY,
RED RIVER ARMY DEPOT, Texarkana, TX

*Docket No. 03-2173; Submitted on the Record;
Issued November 17, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant established that his back and right leg injuries are causally related to his employment.

On May 6, 2003 appellant, then a 43-year-old pipefitter, filed a claim for a traumatic injury alleging that on May 5, 2003 he sustained a work-related injury to his back and right leg, when he bent to pick up a wrench.

In a report dated May 12, 2003, Dr. Thomas C. Young, appellant's attending Board-certified orthopedic surgeon, noted that appellant reported that on May 5, 2003 while at work, he felt a moderate twinge of pain in his back and right side back, when he bent down to lift a wrench. Appellant stated that the pain resolved spontaneously, but that it returned and worsened during the week. Upon examination, Dr. Young noted that appellant had a slight toe walking difficulty, limited mobility, a diminished deep tendon reflex and a positive straight leg raising on the right, which produced pain. He ordered a trial of an anti-inflammatory medication, a spinal magnetic resonance imaging (MRI) scan and placed appellant off work until he could review the test results.

By letter dated June 5, 2003, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish his claim. The Office further informed appellant of the type of medical evidence needed to support his claim.

In a report dated May 28, 2003, Dr. Young stated that the MRI scan results were essentially normal and that "it would be hard to blame his symptoms on these findings, although it could be."¹ On that day Dr. Young advised that appellant needed a bed to reduce back pain. In a follow-up report dated June 16, 2003, he advised that appellant remained symptomatic with

¹ A May 12, 2003 spinal x-ray was normal. A May 21, 2003 MRI scan of appellant's lumbar spine revealed desiccation of the L5-S1 disc and a small posterior central subligamentous protrusion that did not compromise the spinal canal or affect the nerve roots.

some buttock discomfort. Dr. Young also noted a slightly positive straight leg raising test on the right and diagnosed right-sided radiculopathy. He recommended continued conservative treatment including therapy and medications. Dr. Young also submitted disability slips dated May 12, 28 and June 16, 2003, in which he kept appellant off work from May 12 to July 15, 2003.

In a decision dated July 30, 2003, the Office found the May 5, 2003 incident established, but denied appellant's claim on the grounds that he failed to establish that his claimed medical condition was causally related to the work-related event.

The Board finds that appellant failed to establish that his medical condition is causally related to his employment.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.³ To establish causal relationship between the claimed disability and the employment injury, appellant must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship.⁴ An award of compensation may not be based on surmise, conjecture and speculation or upon the claimant's belief that there is a causal relationship between a condition and employment.⁵

The Board finds the reports of Dr. Young to be of limited probative value. In a report dated May 12, 2003, he noted that he had examined appellant after the May 5, 2003 incident, placed him off work and referred him for an MRI scan. In a report dated May 28, 2003, Dr. Young advised that appellant's disc dissection at L5 and a posterior bulge were not the cause of his symptoms. In a June 16, 2003 report, he noting that buttock discomfort, a positive straight leg raising and right-sided radiculopathy failed to relate these conditions to his employment. In none of these reports did Dr. Young provide an opinion that appellant's condition, including right-sided pain, was causally related to the incident that occurred on May 5, 2003, when he bent down to lift a wrench. Likewise, Dr. Young's disability reports do not provide an opinion regarding the cause of appellant's condition. Medical evidence which does not offer any opinion regarding the cause of an employee's condition⁶ or does not contain rationale on causal

² 5 U.S.C. §§ 8101-8193.

³ *Gary J. Watling*, 52 ECAB 278 (2001).

⁴ *Manuel Gill*, 52 ECAB 282 (2001).

⁵ *Calvin E. King*, 51 ECAB 480 (2000).

⁶ *Michael E. Smith*, 50 ECAB 313 (1999).

relationship is of limited probative value on the issue of causal relationship.⁷ Thus, appellant failed to establish that he sustained a work-related injury on May 5, 2003 and the Office properly denied his claim.

The July 30, 2003 decision of the Office of Workers' Compensation Programs is affirmed.⁸

Dated, Washington, DC
November 17, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁷ *Jimmie H. Duckett*, 52 ECAB 332 (2001).

⁸ The Board notes that this case record contains evidence which was submitted with appellant's appeal to the Board. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952).